

THE MONTANA TITLE IV-E FOSTER CARE ELIGIBILITY REVIEW REPORT
MONTANA DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES DIVISION
OF CHILD AND FAMILY SERVICES

JUNE 16 - 19, 2003

I. INTRODUCTION

The Montana Department of Public Health and Human Services, Division of Child Welfare (DCW) staff, in partnership with the Administration for Children and Families (ACF) staff, conducted a IV-E Foster Care Eligibility Review, in Helena, Montana from June 16 through 19, 2003. The purpose of the Title IV-E Foster Care Eligibility Review was to evaluate the accuracy by the state in claiming Federal Financial Participation (FFP) and assure that appropriate maintenance payments were made on behalf of eligible children placed in eligible homes and institutions.

II. SCOPE OF THE REVIEW

The Montana Title IV-E Eligibility Review encompassed a sample of all Title IV-E foster care cases in the state during the period of April 1, 2002 through September 30, 2002. A computerized statistical sample of one-hundred cases (eighty review cases and an over-sample of twenty cases subject to any review case disqualification) was drawn from the Adoption and Foster Care Analysis and Reporting System (AFCARS) data, which was transmitted by the state agency to ACF. ACF then provided a statistical sampling frame that consists of individual children who received at least one Title IV-E foster care maintenance payment during the six-month period noted previously. For each case, the child's file was reviewed for documentation which supported the determination of Title IV-E eligibility and that the foster care home and/or institution in which the child was placed was licensed during the period under review.

During the primary review, 80 cases were reviewed. Twenty-two cases were determined to be in error for either part or all of the review period for reasons that are identified in the Case Record Summary section of this report. In addition, there were seven cases in which, though the case was not defined as an error case, a disallowance is taken for some period of ineligibility. Since the number of error cases exceeded four, the ACF has determined Montana not to be in substantial compliance. Pursuant to 45 CFR 1356.71(i), the state is required to develop a Program Improvement Plan (PIP) designed to correct those areas determined not to be in substantial compliance within ninety days of notification. The one year PIP will be developed by the state, in consultation with the Regional Office. Once the state has satisfactorily completed the PIP, a secondary review of a sample of 150 title IV-E foster care cases will be conducted.

The Montana IV-E Eligibility Review Team included seven individuals: Pam Mayer, Review Coordinator; Wanda Stout, IV-E Specialist; Betsy Stimatz, Licensing Specialist; Kim Aiken, Fiscal Officer; Cindy Askelson, Diane Bocksnick, Carol Davis, Serri Dodd, Debbie Spadt

(Regional IV-E Specialists); Sue Parker (tribal); and John Pambrun (tribal). ACF Regional staff participating in the eligibility review included: Marilyn Kennerson, National Review Team Leader; Cynthia Thomas, Child Welfare Team Lead; Region VIII State Program Specialists, Eric Busch (Montana State Lead); Kevin Gomez; and Gloria Montgomery.

III. CASE RECORD SUMMARY

The following details the error and disallowance cases, the reasons for the error, and period of disallowance:

TABLE OF ERROR & NON-ERROR CASES [with disallowances]

Sequence Number	No Error Found	Errors		Type of Error	Period of Disallowance & Region #
		Child	Provider		
1. 2		x		No PH-aged out on 5/15/02	4/01/01 to 5/15/02 R-5
2. 4		x		No PH	4/01/01 to 6/16/03 R-5
3. 5		x		No PH - adoption	10/01 to 1/31/03 R-4
4. 8			x	Provisional License	8/01/01 to 4/05/02 R-2
5. 9		x		PH late	6/01/02 to 10/31/02 R-5
6. 17	x			No PHTPR - 7/16/02	12/01/01 to 6/30/02 R-4
7. 19 tribal-AS	x			PH late	4/01/01 to 3/31/02 R-1
8. 28		x		PH late	4/01/01 to 5/11/03 aged out R-5
9. 29 tribal-AS		x		No court order within 180 days of parental agreement	5/01/01 to 9/30/02 R-1
10. 30		x		No "R.E." in court order within 60 days of removal	4/01/01 to 6/30/01 R-3
11. 31 tribal - SK		x		PH late	9/01/02 - 12/31/02 R-5
12. 33		x		PH late	1/01/02 to 11/30/02 R-5

Sequence Number	No Error Found	Errors		Type of Error	Period of Disallowance & Region #
		Child	Provider		
13. 35	x			PH late	1/01/02 to 4/31/02 R-5
14. 38 tribal-AS		x		PH late	10/01/02 to 2/28/03 R-1
15. 40		x		PH late	4/01/01 to 3/31/03 R-4
16. 42		x		Court order not timely/CTW/RE	4/01/01 to 06/17/03 R-3
17. 49	x			PH late	4/01/01 to 12/31/01 R-3
18. 50		x		PH late	1/01/02 to 3/31/02 R-3
19. 52		x		PH late	8/01/02 - 11/30/02 R-3
20. 55		x		No PH	4/01/01-1/31/03 funding source changed 2/01/03 R-4
21. 57	x			PH late	1/01/02 to 6/30/02 R-4
22. 59	x			PH late	4/01/01 to 4/31/02 R-2
23. 60		x		Removal order no CTW	5/01/02 to 6/18/03 R-5
24. 75		x		PH late	4/01/01 to 6/18/03 R-5
25. 76		x		PH late	4/01/01 to 6/19/03 R-3
26. 79	x			PH late	12/01/01 to 5/30/02 R-3
27. 80		x		PH late	03/01/02 to 6/17/03 R-3

JUVENILE CORRECTIONS

Sequence Number	No Error Found	Errors		Type of Error	Period of Disallowance & Region #
		Child	Provider		
28. 13		x		No initial Court Order with RE/CTW language	6/04/01 to 10/06/02
29. 63		x		lack of appropriate court orders	1/20/98 to 9/30/02

An analysis of the error and disallowance cases reveals that the majority of the errors relate to court findings. The largest category of errors and disallowances is in late Permanency Hearings, with eighteen cases (CFR 1356.21(d)). In five cases, no Permanency Hearing order was found in the file (CFR 1356.21(b)(2)). There were seven cases with a lack of appropriate removal or custody orders (CFR 1356.21(b) and (c)). One case had errors related to foster care licensing (CFR 1356.71(g)).

The state appealed four of the cases, and provided additional documentation after the review to support those appeals:

- 1) Case Sequence Number 31 – It was determined that the court documentation provided for a hearing that occurred on 9/13/02 does not address permanency, and this remains an error case.
- 2) Case Sequence Number 45 – It was determined that this was both a non-error and a non-disallowance case because there was a judicial determination regarding permanency on 12/12/01 and the date for the subsequent determination would be 12/12/02, which is beyond the period under review (PUR).
- 3) Case Sequence Number 52 – It was determined that the additional court transcript documentation provided did not constitute a judicial determination of permanency.
- 4) Case Sequence Number 80 – It was determined that this remains an error case as the additional court transcript documentation did not address permanency to ASFA standards as “long-term foster care” is not a recognized permanency goal unless compelling reasons are documented that other permanency goals are not achievable.

IV. SUMMARY OF ISSUES

The following Summary of Issues provides indications of areas needing improvement and the state’s awareness of and attempts to address those issues. This summary constitutes the basis for a Program Improvement Plan (PIP) that the state will need to prepare and implement within 90 days of receipt of this report.

Strengths

- There were good efforts to organize the review process.
- The staff is knowledgeable regarding requirements, and there were positive attitudes regarding issues and fixes.
- Staff and judicial training has been done and a judge's handbook was distributed.
- The state's Regional Administrators have worked with their judicial components.
- The division is implementing a QA system in CAPS (this is a CFSR PIP goal).
- It is now in statute that county attorneys must notify courts that hearings are due.
- The state is working on developing court incentives to hear cases timely and issue written orders through the IV-E administrative process and findings.
- Voluntary placements can now be done for up to 180 days but this will change to 30 days in October with implementation of new state legislation.
- Eligibility determination is going to come under DPHHS and it is anticipated that this will result in greater consistency (determination is now done by the Office of Financial Assistance).
- The division is working on statewide standards for file organization.
- Juvenile justice cases are now under the jurisdiction of the supreme court, which is aware of IV-E issues (Beverly Boyd, who works for the court, is focusing on ASFA compliance).
- NICWA and the Court Improvement Program could help with tribal issues.
- The state is committed to continue agreements with tribes for funding IV-E eligible tribal cases. There is currently IVE pass-through for all 7 tribes and 6 of the 7 have agreements to do IV-E eligibility determination and case management on the reservation (Fort Peck contracts with the state for this).
- The division is looking at developing a licensing checklist for files. CAPS can also cross-check regarding CA/N referrals.

Areas in Need of Improvement/Documentation

- Staff training for tribal, court, and CW staff regarding IVE requirements.
- Documentation of hearings/court orders – the court in some jurisdictions does not issue written findings or orders, and the county attorneys, who may be expected to work up orders, have little incentive/workload issues.
- Permanency hearings, due to court continuances and other issues, are not always held timely.
- Tribal Court – permanency hearing requirements are not in tribal code; some tribes do not recognize ASFA (Salish-Kootenai and Blackfeet) and others have workload issues; staff turnover is an issue for most tribes.
- Tribal IV-E Agreements are signed by the tribal council but the tribal court is not involved.
- TIA orders preceding removal by significant amounts of time are not acceptable as removal orders, even though they contain “contrary to welfare” and “best interests” language.
- Licensing – there is a lack of policy on updating criminal background checks (should have another fingerprint check upon license renewal). File

documentation and checklists/flagging could also improve licensing and monitoring procedures.

- A Quality Assurance process is needed (and in development in CAPS) to monitor and flag cases needing hearings. The Billings “drug court” project has set up its own flagging system, and this could be replicated. Court continuances vary by jurisdiction, and this sort of inconsistency could be abated by a QA system.
- Eligibility determination is currently a bi-furcated system with determination done by a separate division that leads to issues regarding consistency, documentation, accuracy and timeliness.
- Other issues – there appears to be an over-use of long-term foster care; there is a need for AFSA training; case files could be better organized and labeled; juvenile justice cases do not appear to be compliant with IV-E requirements.

V. DISALLOWANCES

The review included a sample of 80 cases. The sample was drawn from a universe of cases that received at least one title IV-E foster care maintenance payment during the six month AFCARS period of April 1, 2002 to September 30, 2002. Based upon the results of the review, the state of Montana has been determined to be not in substantial compliance. Twenty-nine cases were determined not to be eligible for funding under title IV-E Foster Care for some period of time during the review period. The following table shows the disallowance amounts per case:

SAMPLE#	Disallowance – FFP dollars		
	Maintenance	Administration	Total FFP
2	4,088	3,887	7,975
4	6,174	7,002	13,176
5	4,565	4,683	9,248
8	2,824	1,951	4,775
9	4,645	1,561	6,206
13	20,713	5,448	26,161
17	969	1,561	2,530
19	6,749	4,660	11,409
28	14,210	7,002	21,212
29	6,431	6,615	13,046
30	991	1,159	2,150
31	171	390	561

33	7,498	3,513	11,011
35	4,508	1,561	6,069
40	14,590	7,002	21,592
42	4,747	6,615	11,362
49	1,893	3,493	5,386
50	460	781	1,241
52	491	781	1,272
55	39,552	7,002	46,554
57	4,764	2,342	7,106
59	8,545	5,050	13,595
60	1,450	1,561	3,011
63	10,882	8,836	19,718
75	8,024	7,002	15,026
76	12,021	7,002	19,023
79	2,096	2,342	4,438
80	10,557	2,342	12,899
	204,608	113,144	317,752

The disallowance amount of \$317,752 should be repaid by including a prior decreasing adjustment on the Quarterly Report of Expenditures (Form ACF-IVE-1), Part 1, Line 1, Columns c and d. A supplemental IVE-1 form must be submitted within 30 days of the date of this letter in order to avoid the assessment described above, and sent as described in the accompanying transmittal letter. In addition, the state must discontinue claiming costs for ineligible cases after the PUR, and adjust any claims already made for these cases.